
The City of Chula Vista Development Services Department
MEMORANDUM TO THE
MOBILEHOME RENT REVIEW COMMISSION

Item No. 2 (Addendum)

Staff: Stacey Kurz

DATE: July 13, 2010

SUBJECT: RENT INCREASE FOR BRENTWOOD MOBILE HOME PARK-
CONTINUATION OF MAY 19th & JUNE 16th HEARINGS FOR
CONSIDERATION OF PROPOSED RENT INCREASES FOR TWO HUNDRED
(200) AFFECTED SPACES OF BRENTWOOD MOBILE HOME PARK,
LOCATED AT 1100 INDUSTRIAL BOULEVARD IN CHULA VISTA AND
REQUEST FOR ADDITIONAL INFORMATION

The following submittal is attached for your review, as attachment 5 of the staff report packet dated July 7th.

Should you have any questions regarding the attached please contact my office at (619) 585-5609.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacey SK", with a stylized flourish at the end.

Stacey S. Kurz
Senior Project Coordinator

HK&C

HART, KING & COLDREN

C. William Dahlin
bdahlin@hkclaw.com

July 12, 2010

Our File Number: 38059.021/4830-7921-1782v.1

EMAIL and U.S. MAIL

Stacey S. Kurz, Senior Project Coordinator
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA, 91910

Members of the Rent Review Commission
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA, 91910

Simon Silva, Esq.
City Attorney
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA, 91910

Re: *Brentwood Mobilehome Park / Rent Increase*

Dear Ms. Kurz, Members of the Rent Review Commission and Mr. Silva:

I am in receipt of the agenda and staff report for the hearing set for Thursday, July 15, 2010. The July 15, 2010 hearing was set following the hearing on June 16, 2010. The matter was adjourned for one month to ascertain what action, if any, the California Public Utilities Commission (CPUC) would take with reference to a "complaint" filed by one resident of Brentwood Mobilehome Park. I have also received and reviewed the draft minutes from the June 16, 2010 hearing.

The rent increase at issue is a request by the Park owner to be reimbursed for substantial capital expenses incurred after purchase of the Mobilehome Park. The requested rent increase is \$96.00 per month per space, to be implemented over a three (3) year period of time (i.e. \$32.00 per year).

Over the objections of the applicant (Brentwood Mobilehome Park) the matter was continued from June 16, 2010 to see what developments, if any, would come forth from the CPUC. The report from Staff indicates that as of July 7, 2010 the PUC has indicated that they would not be reviewing any "appeal" and that the matter was not within the PUC's ongoing jurisdiction.

The application in this matter, as the commission and staff have properly recognized, was exceptionally thorough and transparent. Each and every capital cost incurred and the necessity has been well documented. There is absolutely no evidence (credible or otherwise) that would support a finding that the substantial capital improvements that are the subject of this application were either not necessary, improperly incurred, or were not performed in a cost effective fashion. One of the primary expenses, of course, has been the reinforcement of the existing electrical system. (The term reinforcement is utilized herein to avoid any misapprehension that the prior existing system was merely "replaced" and would therefore be ineligible for reimbursement through rent.) The reinforcement/upgrading of the Park's electrical



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system from 30 amp to 100 amp was performed at a cost of \$1,461,172.00. As is appropriate under prior decisions of the CPUC the Park owner also undertook to retain a recognized expert to ascertain what portion of that expense, if any, was properly recovered only through the differential billing system established by the CPUC. Dr. Richard McCain undertook that investigation and has set forth his findings in the written report provided to the Rent Review Commission. The undisputed expert witness evidence is that the master meter discount would necessitate a reduction of \$93,432.76 from the total capital expense for the reinforcement of the electric system. This meant that \$1,367,739.25 was properly included in the capital improvement application and can and should be recovered through rent.

The reimbursement has been requested over a term of 40 years (the entire new term of the ground lease). Thus, the Park owner is receiving reimbursement of that various substantial capital expense over the entire term of the lease. That is, obviously, not a short term recovery. Moreover, the cost of the lease extension is very much a capital expense that benefits the homeowners. That lease extension is of significant help for any resident trying to see his or her home because it gives any lender the comfort and security of knowing the park will continue to be operated. A lease with a termination date out just 10-12 years has a real concern to give financing for a 20 year term!!

As you may know, my client has worked very closely and successfully with employees of the City of Chula Vista to improve Brentwood in accordance with city requirements and needs. They have also expended millions of dollars to improve the appearance, operation and living conditions of Brentwood Mobile Home Park. It is with pride that my client has appreciated and accepted compliments from city staff and commission members who have recognized the major improvements that have improved the lives of our residents and who have noted the extent of my client's extensive disclosure of information to the commission. At one point, it was pointed out at the first meeting that the commission has never before received such a thorough report from an applicant.

I hope that the commission can understand my client's disappointment as they have respectfully watched as motions have been made that have seriously reduced improvement costs based on 'health and safety requirements' and 'that no system improvements were made'. Besides the facts that the health and safety issue is not part of your ordinance and that there have been clear and obvious improvement of the electrical system from 30 amp to 100 amp, it is quite disturbing to my client that a significant reduction in these reimbursable costs will pit a conscientious and well respected mobile home park operator against a city organization. My client takes pride in their relationship with the cities and counties where they do business and I think you will find positive feedback from the employees they have worked with at the City of Chula Vista and with all other cities and counties in which my client owns property throughout the United States.



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At the commencement of the meeting held on June 16, 2010 the members of the Rent Commission asked staff to reconfirm any recommendation. As noted in the draft minutes, staff (per Stacey Kurz), reaffirmed "...that the recommendation was to establish the market rent which was in the mid-\$500.00 to \$600.00 range based on comparable rents and raise those rents below the market value up to market, but not to exceed the \$96.00 over three years."

Thus, after extensive review by the City's staff, the recommendation of the Commission's staff and assistants is that the requested rent increase of \$96.00 per month per space be implemented over a three-year period of time. That recommendation of staff is rational, consistent with the City's Rent Control Ordinance and allows the Park owner to be reimbursed the substantial out-of-pocket capital expense.

The implementation over a three-year period of time eliminates the concern of a one time adjustment. Moreover, the Park has indicated, at both the May and June meetings, that it has and would implement a rental assistance program for any resident that can demonstrate an inability to pay the rent increase.

At the hearing on June 16, 2010 the discussions amongst commissioners focused on the propriety of proceeding, in view of the potential interaction with the CPUC. That issue has now, presumably, been laid to rest. The only "substantive" proposal at the prior hearing was a motion that a rent increase for \$27.00, spread over three years (\$9.00 per year). That motion, made on several occasions, died each time for lack of a second. The applicant would wish to reiterate, in the strongest possible terms, that a rent increase that does not actually address and provide for reimbursement of the capital expenses incurred can only lead to further expense by both the applicant and the City. As noted above, the applicant in this matter worked hand-in-hand with City's staff to accomplish the substantial upgrading of Brentwood Mobilehome Park. That process necessitated the expenditure of many millions of dollars and benefits the residents, the City as a whole, and ultimately makes the Park a much better place to reside. The consequence of insufficient reimbursement can only be a petition for writ of administrative mandamus. That is an unfortunate use of scarce resources by both the owner and the City. The applicant could also note that the last litigation about the City's rent control ordinance was undertaken by and between the Cacho family and the City. That case was eventually determined by the California Supreme Court. That litigation cost all parties many tens of thousands of dollars and ultimately led to the homeowner group which was responsible for "spearheading" that litigation being held responsible for reimbursement of attorney's fees and costs to the Cacho family.

Brentwood Mobilehome Park would again respectfully request that the Commission undertake a rational and dispassionate review of the capital expenses and the reimbursement being requested. The purpose and intent of the City's Rent Control Ordinance is for the Rent Review Commission to be a truly neutral arbiter and to provide for rent increases that provide a just and reasonable return and are economically supported. The undisputed evidence before the Rent



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Review Commission sets forth how and why each dollar at issue is appropriate. There is no evidence, documentary or otherwise, that impugns or otherwise contradicts the simple mathematical facts laid out in the application.

One other matter must be addressed. The agenda report for the hearing of July 15, 2010 references an attachment letter. The new attachment constitutes an attempt by the residents, through another agency, to present substantive testimony and/or opinion with reference to the rent application. The public hearing aspect of this application was closed at the conclusion of the May 2010 meeting. Thus, the attachment letter from the Southwest Chula Vista Civic Organization received on or about July 7, 2010 should be disregarded and stricken from the administrative record in this proceeding.

Sincerely yours,

HART, KING & COLDREN

C. William Dahlin
CWD/sm

cc: Brentwood MHP Investors